

CITY COUNCIL REPORT



Meeting Date: May 15, 2012
 General Plan Element: *Open Space & Recreation*
 General Plan Goal: *Provide access to educational, recreational and cultural services for all residents*

ACTION

Adopt Ordinance 4016 amending Scottsdale Revised Code Sections 20-30, 20-31 and 20-34 of Chapter 20, Parks, Recreation and Cultural Affairs, Relating to Article III, General Park Rules including Scope, General Rules for Use and Beer Permits.

BACKGROUND

Parks and Recreation Department staff reviewed and evaluated Scottsdale Revised Code, Chapter 20, Parks, Recreation and Cultural Affairs, Sections 20-30 regarding Scope, 20-31 regarding General Rules for Use and 20-34 regarding Beer Permits. Staff worked with the City Attorney's Office to draft amendments to revise and update these sections.

Section 20-30:

As a result of its review and evaluation of Section 20-30, staff determined that some of the terminology used to define the "General Manager" was outdated. The proposed amendment to Section 20-30 revises the definition of "Executive Director".

Section 20-31:

As part of its review and evaluation of Section 20-31, staff worked with the Arizona Game and Fish Department and a graduate student from Arizona State University in their efforts to count, track and monitor the population of waterfowl at Chaparral Park Lake over a two-year period. The results of those studies show a significant increase in waterfowl population, much of which is attributed to park patrons feeding of the birds. The studies from both agencies identified additional concern for water quality in the lake, the health of the waterfowl themselves and possible public health concerns for park patrons due to the increase in population. In an effort to prevent park patrons from feeding birds and contributing to this problem, the proposed amendment to Section 20-31 would prohibit the feeding of wildlife/waterfowl in city parks.

An additional technical change is being made to Section 20-31 related to weapons in city parks in order to remove a conflict between the city code and state law.

Section 20-34:

Staff reviewed and evaluated the current language of Section 20-34 Beer Permits and is proposing an amendment to allow for changes in the fee charged. Section 20-34 currently requires an applicant for a beer permit to submit a \$5 fee with the permit application. The proposed amendment eliminates the reference to the \$5 fee and states that a beer permit application shall be accompanied by “the current council approved fee.” This fee would be determined as part of the process pertaining to the annual review and approval of Parks and Recreation fees and charges by the Parks and Recreation Commission and the City Council.

ANALYSIS & ASSESSMENT

Recent Staff Action

The Parks and Recreation Commission discussed and unanimously approved restricting the feeding of wildlife/waterfowl in city parks and recommended the approval of the proposed amendments to Scottsdale Revised Code Section 20-31, General Rules for Use, at their November 16, 2011 meeting.

RESOURCE IMPACTS

Available funding

Staff anticipates there will be minimal impacts to funding and workload with the proposed ordinance changes. The existing Parks and Recreation Department budget will absorb any costs related to the changes.

OPTIONS & STAFF RECOMMENDATION

Recommended Approach

Staff recommends Council approval of the proposed amendments to the Scottsdale Revised Code, Chapter 20, Parks, Recreation and Cultural Affairs, Sections 20-30 Scope, 20-31 General Rules for Use and Section 20-34 Beer Permits as presented.

Proposed Next Steps

If the amendments to Scottsdale Revised Code Sections 20-30 and 20-31 are approved, staff will communicate the proposed amendments to key community stakeholders including the Scottsdale Police Department, United States Department of Agriculture (USDA), the Arizona Game and Fish Department (AZG&F) and local community wildlife rehabilitation, education and conservation groups. Staff and the key stakeholders will accomplish this through a public meeting and ongoing community education efforts.

In addition, if the amendment to Scottsdale Revised Code Section 20-34 is approved, Parks and Recreation Department staff will submit, on an annual basis, a proposed beer permit fee to the

City Council Report | Adopt Ordinance 4016 Amending Chapter 20 of Revised Code

Parks and Recreation Commission and the City Council for review and approval. Such fee will be included in the proposed Parks and Recreation fee schedule.

RESPONSIBLE DEPARTMENT(S)

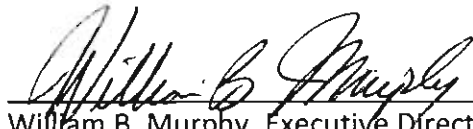
Community Services Division/Parks and Recreation Department

STAFF CONTACTS (S)

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Jan Cameron, Parks and Recreation Director, jcameron@scottsdaleaz.gov.

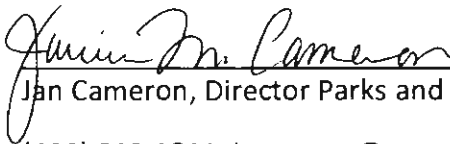
APPROVED BY



William B. Murphy, Executive Director

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4/30/12
Date



Jan Cameron, Director Parks and Recreation Department

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4/30/2012
Date

ATTACHMENTS

1. Ordinance 4016

ORDINANCE NO. 4016

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AMENDING SECTIONS 20-30, 20-31 AND 20-34 OF CHAPTER 20, PARKS, RECREATION AND CULTURAL AFFAIRS, OF THE SCOTTSDALE REVISED CODE, RELATING TO ARTICLE III, GENERAL PARK RULES.

BE IT ORDAINED by the Council of the City of Scottsdale as follows:

Section 1. Section 20-30. Scope, of Chapter 20, Parks, Recreation and Cultural Affairs, is amended as follows:

Sec. 20-30. Scope.

The provisions of this article shall apply to public parks within the city limits, which shall be referred to in this article as *city parks*. This article shall not apply to city parks to which specific provisions of this Code apply, or to public lands within the boundaries of the McDowell Sonoran Desert Preserve. In the event of a conflict between the provisions of this article and any provision of this Code relating to a specific city park, the provisions relating to the specific park shall apply. *General manager*, as used in this article, means the general manager, whose duties include administering the city parks, or the community services department, or the general manager's designee.

Section 2. Section 20-31. General rules for use, of Chapter 20, Parks, Recreation and Cultural Affairs, is amended as follows:

Sec. 20-31. General rules for use.

(a) All persons using city parks shall comply with all federal, state, county and city laws, rules and regulations.

(b) All persons using city parks shall also comply with the following:

- (1) ~~No deadly weapons are permitted in city parks, except firearms by persons who possess a permit issued pursuant to A.R.S. § 13-3112. A "deadly weapon" as used in this subsection is anything designed for lethal use and it includes firearms and knives with blades longer than three and one half (3 1/2) inches. This subsection shall not apply to special public events or instructional classes being held pursuant to a city permit at which weapons are used for show or demonstration purposes. Reserved~~
- (2) No person shall discharge a firearm in a city park, except that blank cartridges may be discharged using a firearm during special events, when authorized by the general manager.
- (3) No person shall consume spirituous liquor from an open container, or possess spirituous liquor in an open container, in a city park. *Spirituos liquor* includes alcohol, brandy, whiskey, rum, tequila, mescal, gin, wine, porter, ale, beer, any malt liquor or malt beverage, absinthe, a compound or mixture of any of them with any vegetable or other substance, alcohol bitters, bitters containing alcohol,

any liquid mixture or preparation, whether patented or otherwise, which produces intoxication, fruits preserved in ardent spirits, and beverages containing more than one-half of one percent of alcohol by volume. The only exception to this subsection is that beer in an open container may be consumed or possessed pursuant to a permit issued by the city, as provided in section 20-34 of this article.

- (4) All persons fourteen (14) years and older who are fishing in city lakes must be in possession of a valid fishing license and any other license or permit as may be required by law.
- (5) No person shall harm, injure, remove from, or release into any city park any animal, without approval of the general manager. Except as otherwise provided by law, no person shall feed, touch, tease, frighten, hunt, kill, wound, or intentionally disturb wildlife in any city park, without authorization from the general manager. No person shall remove plants, ~~wild animals~~ wildlife or natural materials found in a city park, except the lawful removal of fish from a lake. "Wildlife" means all undomesticated and feral animals, and includes birds, coyotes, javelinas, feral cats, eggs and nests.
- (6) No motorized vehicles shall be allowed in a city park, except in designated parking areas. This subsection shall not apply to: (i) city employees or others authorized by the city to perform inspection, repair or maintenance work; (ii) persons providing emergency, search and rescue, medical or veterinary services; (iii) the use and operation of a motorized wheelchair by a person who ordinarily uses such equipment (iv) vendors, on park related business, with the permission of authorized city staff.
- (7) The sale of food, beverages or other merchandise is prohibited unless specifically authorized by permit issued by the city.
- (8) Lakes, fountains and other waterways shall not be used for swimming, wading or bathing.
- (9) No person shall throw or deposit any litter, garbage or debris in or upon a city park, or park premises, in violation of sections 18-2 and 18-4(e) of this Code.
- (10) Public boating shall be confined to Chaparral and McKellips Lakes. Watercraft used in public boating must be registered in accordance with state law. *Watercraft*, as defined in A.R.S. § 5-301, means "any boat designed to be propelled by machinery, oars, paddles or wind action upon a sail for navigation on the water". Use of watercraft in public boating in a city park shall be limited, however, to sailboats, rowboats, canoes or boats with electric motors.
- (11) No person shall undertake mechanical repair or maintenance of any vehicle in a city park, including but not limited to automobile oil changes and engine tune-ups, except in the case of an emergency when the vehicle is inoperable. No commercial or professional washing or waxing of vehicles shall be permitted in parks.
- (12) No person shall be in or on park premises at any time other than those times authorized for public use, as provided in section 20-35, below.
- (13) No person shall use any city park facility, or any area in a city park, which has been declared "closed" and which has been so posted by the city, except as authorized in writing by the general manager.
- (14) Horses are prohibited in city parks, except on bridle paths, equestrian trails, or in equestrian areas that are designated by posted notices. This subsection shall not apply to: (i) horses being used by the police department in the course of their official duties; or (ii) public events or classes held pursuant to a city permit.

- (15) Practice golfing is prohibited in city parks, except for public events or classes held pursuant to a city permit.
- (16) Gas powered model airplanes and incendiary model rockets are prohibited. Model boats may be operated only in McKellips Lake and Indian School Park Lake and any other areas that may be designated by the city for such purpose. Model boats may be operated only between the hours of 9:00 a.m. and sunset.
- (17) No person, or person who has custody of a dog, horse or other animal, shall cause or permit damage to any park property, including but not limited to trees, shrubs, plants, turf and landscaping, or digging holes in or removing turf or ground from a city park.
- (18) No open fires are permitted, unless specifically authorized by permits issued by the city and the fire department. Charcoal only may be used in fixed grills provided in city parks and charcoal fires shall be attended at all times.
- (19) No glass, ceramic or easily broken plastic food or beverage containers are permitted in the park.
- (20) No person shall knowingly and intentionally throw, toss, propel, or break any glass object in a city park.
- (21) No person shall participate in archery or willfully, negligently or recklessly discharge, use or propel any object or projectile capable of causing serious physical injury, including but not limited to an air gun, BB gun, pellet gun, dart gun, crossbow, slingshot, blowgun, javelin or spear. "Serious physical injury" includes physical injury which creates a reasonable risk of death, or which causes serious and permanent disfigurement, serious impairment of health or loss or protracted impairment of the function of any bodily organ or limb. This subsection shall not apply to special public events or classes held pursuant to a city permit issued for such activities.
- (22) No person shall tether, launch or land a hot air balloon in a city park, except in the case of emergency, or unless expressly authorized to do so, in writing, by the general manager.
- (23) The owner or person in custody of a dog shall immediately pick up all dog droppings (fecal matter) place them in a closed or sealed container and deposit them in a park trash receptacle or remove them from the park, as provided in subsection 4-18(f) of this Code.
- (24) No person shall throw, deposit or place any commercial or non-commercial handbill in or upon any unattended vehicle parked or located in a city park.
- (25) Smoking is prohibited in any enclosed public place in a city park, as provided in section 19-16 of this Code, except in areas designated for smoking by the general manager.
- (26) All motor vehicles operated in a city park must have current legal registration, display number plates for the current registration year and be operated only by properly licensed drivers.
- (27) A maximum speed of five (5) miles per hour shall be in effect at all times for motor vehicles.

(c) *Person*, as used in this section, includes a corporation, firm, partnership, association, organization and any other group acting as a unit, as well as an individual.

Section 3. Section 20-34. Beer permits, of Chapter 20, Parks, Recreation and Cultural Affairs, is amended as follows:

Sec. 20-34. Beer permits.

(a) No person or members of a group or organization shall consume beer from an open container, or possess an open container of beer, in a city park without first having obtained a permit pursuant to this section. Beer means any beverage obtained by the alcoholic fermentation, infusion or decoction of barley, malt, hops, or other ingredients not drinkable, or any combination of them. A condition of any permit shall be that the person or member of a group subject to the permit shall comply with all state liquor laws. The person to whom the beer permit has been issued must be present for the permit to be valid and the permit must be displayed at the request of any park employee or police officer. A permit is invalid in any park areas where the consumption or possession of beer is prohibited by the city.

(b) Application for a beer permit shall contain the applicant's name, address, telephone number, date of birth and age and the number of persons to which the permit will apply. The applicant shall show proof of age in one of the following forms: (i) an unexpired driver license issued by any of the United States or Canada, provided such license includes a picture of the licensee; (ii) a nonoperating identification license issued by the State of Arizona; (iii) an armed forces identification card; or (iv) a valid unexpired passport. When applying for a permit by phone or other means, the only acceptable form of identification is an unexpired driver license issued by any state or a nonoperating identification license issued by the State of Arizona. The applicant must provide the number and any additional license information to the reservation agent.

(c) ~~An application for a beer permit shall be accompanied by a fee of five dollars (\$5.00).~~ An application for a beer permit shall be accompanied by the current council approved fee. Upon the satisfaction of the terms and conditions of this section, the city shall issue a permit, which shall be valid for one day only, which shall be shown on the permit. A separate permit is required to reserve a park facility.

(d) The beer permit shall be revocable by the city for any violation of this article, any provision of the state liquor laws, or any other condition of the permit. Any person who has had a permit revoked by the city shall not be entitled to apply for another such permit until the expiration of sixty (60) days from the date such revocation occurred.

PASSED AND ADOPTED by the City Council of the City of Scottsdale, Arizona this 13th day of September, 2012.

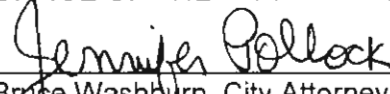
ATTEST:

City of Scottsdale, an
Arizona Municipal Corporation

Carolyn Jagger, City Clerk

W.J. "Jim" Lane, Mayor

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY



Bruce Washburn, City Attorney
By: Jennifer Pollock, Assistant City Attorney